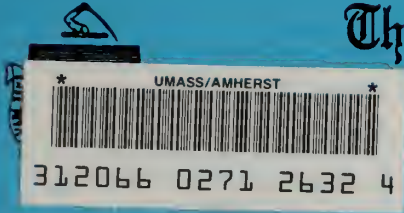


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**INDEPENDENT STATE AUDITOR'S
REPORT ON THE
ABOLITION OF HAMPDEN COUNTY GOVERNMENT
AND THE TRANSFER OF ITS
FUNCTIONS, ASSETS, AND LIABILITIES
TO THE COMMONWEALTH OF MASSACHUSETTS**

OFFICIAL AUDIT REPORT

MAY - 8 2000

**ISSUED BY THE
Department of the State Auditor**

INTRODUCTION

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On July 11, 1997, Chapter 48 of the Acts of 1997, "An Act Abolishing Certain Counties and for the Payment by the Commonwealth of Certain Debts and Obligations of Middlesex County," was signed into law. This Act provided for the immediate abolition of Middlesex County, which was in a fiscal emergency, and the transfer of its functions to the Commonwealth. In addition, this Act delegated the Commonwealth to prepare for the abolition and transfer of the functions of Hampden and Worcester Counties to the Commonwealth as of July 1, 1998. The Office of the State Auditor has conducted a review of the abolition of the Hampden County government and the transfer of its duties, functions, and responsibilities to the Commonwealth. The objective of our review was to conduct a transition audit of the abolition of Hampden County government. Our scope included a review of: the transfer of the functions, assets, and liabilities to the Commonwealth; compliance with Chapter 48 of the Acts of 1997 and Chapter 300 of the Acts of 1998 (which further amended Chapter 48) and other applicable laws, rules, and regulations; and the transfer of controls over cash, fixed assets, personnel, payrolls, liabilities, the retirement system, and other areas identified.

The results of our review showed that, since July 1, 1998 the date of the required abolition, the Commonwealth has adequately handled the abolition of Hampden County government. We found that parties to the abolition, both county officials and state employees, have successfully facilitated the transfer of 858 former county employees who were transferred to either a new department in newly created state positions or positions in existing state departments as required under the legislation. These county employees were also successfully transferred into the Group Insurance Commission (GIC) and the State Retirement System. Moreover, our review indicated that Hampden county funds totaling \$3,335,247 had been successfully transferred to the Commonwealth as of June 30, 1999 and that former county employee retirement assets totaling \$16,791,739 had been transferred to the State Employees Retirement Board as of October 1, 1998. As of June 30, 1999, \$3,135,999 had been expended for county debt and according to the Division of Local Services, as of September 29, 1999, \$231,737 in pending claims were being reviewed for payment. Our review did, however, identify several other issues that need to be reviewed and resolved before such abolition and transition of Hampden County government's functions can be considered successfully completed.

AUDIT RESULTS

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1. **Transferred County Employees Not Contributing the Proper Amount for Health Insurance Premiums:** Our review showed that 819 of the 858 county employees that were transferred to the Commonwealth were enrolled in one of the Commonwealth's health insurance programs. All active Commonwealth employees contribute 15% towards their insurance premiums, and the Commonwealth contributes the remaining 85%. However, we determined that the 819 county employees, who are now Commonwealth employees, were only contributing 10% towards their premiums while the Commonwealth was contributing the remaining 90%. The Commonwealth contributing 90% as opposed to 85% results in an increased cost to the Commonwealth. During fiscal year 1999 the total increased cost to the Commonwealth for family

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enrollees could range from \$112,477 to \$255,963, depending on which plan an employee enrolled in. The totaled increased cost to the Commonwealth for individual enrollees could range from \$32,752 to \$57,585 depending on which plan an employee enrolled in. According to the Executive Office for Administration and Finance the 10% health insurance contribution rate was to be in effect only for fiscal year 1999, ending on June 30, 1999. However, as of October 1999, the Hampden County Sheriff's Department employees were still only contributing 10% towards health insurance premiums, pending the execution of a new collective bargaining contract.

2. **Hampden County Did Not Maintain a Comprehensive List of Fixed Assets:** 12
 Hampden County did not maintain a complete and centralized list of buildings, land parcels, equipment, vehicles, and roads. The Assistant County Treasurer stated that each county department should have its own listing of equipment. However, we found that some county departments had no such listings available and that other department asset listings did not include a date of purchase, funding source, tag number, location, and purchase price. Without an accurate and complete listing of all fixed assets, there is inadequate assurance that all such property was properly accounted for and transferred to the Commonwealth.

3. **Clarification Needed Regarding Salary Increases to Elected County Officials:** 14
 During our review we determined that the Hampden County Register of Deeds and the Hampden County Sheriff, both elected officials, received salary increases subsequent to the abolishment of Hampden County government. The Register of Deeds of Hampden County received a salary increase from the Office of the State Secretary, whose office he was transferred to. The Sheriff of Hampden County received a pay increase through his department's annual budget, which he reviews and approves. Because county abolition legislation does not address salary increases for former County elected officials who are now elected state officials, the process of setting salaries of abolished county elected officials needs to be addressed. The appropriate parties should resolve the methods, differences, and ambiguities in setting the salaries of former county elected officials from abolished counties who are now elected state officials.

INTRODUCTION

Background

Hampden County was formed in 1812 from the southern portion of Hampshire County. The structure of the county government was aligned under three elected County Commissioners who, under the authority of the Massachusetts General Laws, directed the functions of county government. The County Commissioners, County Treasurer, Register of Deeds, and the Sheriff made up the elected officials of the county government.

On July 11, 1997, Chapter 48 of the Acts of 1997, "An Act Abolishing Certain Counties and for the Payment by the Commonwealth of Certain Debts and Obligations of Middlesex County," was signed into law. This Act provided for the immediate abolition of Middlesex County government and the transfer of its functions to the Commonwealth. This Act also delegated the Commonwealth to prepare for the abolition and transfer of the functions of Hampden and Worcester County governments to the Commonwealth as of July 1, 1998. The designation of a transition task force, coordinated by the Executive Office for Administration and Finance (EOAF), was influential in identifying and resolving the major issues relating to the transfer of county functions. The task force is composed of members representing EAOF, the Central Business Office, the Office of the State Comptroller, the Group Insurance Commission, the State Retirement Board, the Department of Revenue, the Human Resources Division, the Division of Information Technology, the Division of Fiscal Affairs, the Office of the Secretary of State (OSS), the Office of the State Treasurer, the Administrative Office of the Trial Court, the Office of the State Auditor (OSA), and officials of the Hampden County government.

On July 1, 1998, as required by the legislation, the elected Hampden County Commissioner positions were terminated. Additionally, the duties and responsibilities of the County Treasurer, an elected official until December 31, 2002, were transferred to the Commonwealth. The County Treasurer's Office functions (including the orderly transfer of assets, liabilities, and personnel from Hampden County to the Commonwealth) were absorbed into other state agencies and departments under the supervision of the

Secretary of EOAF. However, the County Treasurer was allowed to continue to occupy, at no cost, the office space used by the Treasurer immediately before the transfer date.

Also, subject to the provisions of the Act, the operation and management of the Hampden Sheriff's Department and Correctional Center, the Hampden County Registry of Deeds, and the Hampden County courthouses were transferred to the Commonwealth as of July 1, 1998. The abolition was further promulgated and clarified under Chapter 156, Chapter 195, Chapter 300, and Chapter 319 of the Acts of 1998.

Under conditions of the transfer, the Hampden County Sheriff will become an employee of the Commonwealth and will retain administrative and operational control over the Office of the Sheriff, the jail, and the House of Correction as an independent state department in Hampden County. The Sheriff will continue as an elected official and will primarily be funded under the Sheriff's Department as a separate division under the general guidance of the Executive Office of Public Safety.

The Register of Deeds of Hampden County, an elected official, and its personnel will become employees of the Commonwealth under the supervision of the OSS for the Commonwealth. All functions of the Registry of Deeds will be transferred to the OSS.

The buildings, land, parking facilities, fixtures, and improvements owned by Hampden County shall be transferred to the Commonwealth and will be controlled by the Department of Capital Asset Management (formerly the Division of Capital Planning and Operations). The buildings and land of the county courthouses, once transferred, will be operated and maintained by the Office of the Chief Justice for Administration and Management of the Trial Court, subject to the general superintendence of the Supreme Judicial Court. Former county employees whose primary work function concerned the operation and maintenance of the Hampden County's court facilities shall be transferred to the Commonwealth as employees under the Administrative Office of the Trial Court. They shall be reclassified as state employees as promulgated under Chapter 300, Section 16, of the Acts of 1998.

On June 26, 1998, Chapter 156 of the Acts of 1998 was approved. Specifically, this legislation established a reserve account of \$1,253,000 that was:

For certain expenses associated with the abolition of Worcester and Hampden counties; provided, that \$30,000 shall be expended for salaries and benefits for the treasurers and treasurers' staffs of said counties; and provided further, that \$1,223,000 shall be expended for payment to the Insurance Trust Fund of Hampden county and for the cost of providing dental and optical coverage, so-called.

On September 3, 1998, Chapter 319 of the Acts of 1998 was approved. This Act established a reserve account totaling \$4,006,508. The purpose was for:

The payment of certain costs and liabilities of Hampden county including, but not limited to, payments for interest and principal on bonds and notes issued by said county that are either overdue or about to become due; provided, that such funds shall not be expended for the payment of vendors until the commonwealth obtains a release of obligation executed by each such vendor which shall be in complete satisfaction of any claim by such vendor against said county and the commonwealth.

On November 16, 1999 Chapter 127 of the Acts of 1999 was passed. Section 53 of the Act established Chapter 34B of the Massachusetts General Laws, Abolition of County Government, which clarifies and changes prior abolished county legislation.

Audit Scope, Objectives, and Methodology

In accordance with Chapter 11, Section 12, of the General Laws, the OSA has conducted a review of the abolition of the Hampden County government and the transfer of its duties, functions, and responsibilities to the Commonwealth of Massachusetts. The audit scope included conducting a transition audit of the abolition of Hampden County government; determining the status of the transfer of its functions, assets, and liabilities to the Commonwealth of Massachusetts; and reviewing compliance with requirements as established by the legislation enacting the abolition of Hampden County.

Our main objectives were to review the following areas:

- The transferring of 858 former Hampden County employees to the Commonwealth's payroll and retirement system which involves several agencies.
- Cash, cash management, and cash transfer procedures regarding all funds in custody of the former Hampden County government transferred to the state.

- The existence and transfer of all assets, rights, titles, and interest in real and personal property including land, buildings, roads, equipment, furniture and fixtures, and improvements owned or held by the county.
- All valid liabilities, including indebtedness, obligations, and interest to be conferred upon the Commonwealth by transfer.
- All claims for or against the county at the date of transfer to the Commonwealth.
- Other areas that are identified during the course of the audit.

Our review was conducted in accordance with applicable generally accepted government auditing standards. We conducted site visits and preliminary interviews with senior management at the County Treasurer's Office; the Sheriff's Department and Correctional Center, the Registry of Deeds, and other county officials. We also conducted interviews with various state officials responsible for or involved with the transfer of Hampden County assets, liabilities, and personnel to the Commonwealth. We conducted interviews with appropriate officials, and reviewed relevant bank- and cash-related documents, including appropriate accounting records.

To determine compliance with Chapter 48 of the Acts of 1997, as amended, relative to the transfer of personnel to the Commonwealth's payroll and retirement systems, we selected statistical samples from the county's payroll warrant. Our tests were conducted to determine: proper Medicare deductions before and after June 30, 1998; proper retirement group classifications; proper retirement percentage deductions; proper health insurance deductions after June 30, 1998; and authorized changes in salaries. We also conducted interviews and reviewed records to determine whether personnel leave time records and accurate balances were properly transferred. Moreover, we determined whether employees had outstanding compensatory time balances and whether source records for the compensatory time were complete.

To determine assets held by the county, we conducted interviews with management and staff at the various county facilities. We determined whether inventories of equipment, furniture, and fixtures were prepared, properly inventoried, and tagged for identification. We determined the status of the county's

maintenance of fixed asset inventories by obtaining county listings of buildings, land, infrastructure, and roads through our site visits, interviewing staff, and reviewing all the lease contracts.

We obtained and reviewed a listing of all pending litigations, and interviewed county attorneys and staff from the Attorney General's Office to determine the reason for such litigation, the potential costs or damages that could be determined, and the current status of each case.

Based on our review we have concluded that the transfer of Hampden County government functions and duties to the Commonwealth of Massachusetts has been effectively and efficiently carried out by EOAF and other parties mandated to complete the transition. We also determined that, except as noted in the Audit Results section of this report, parties to the transition were in compliance with Chapter 48 of the Acts of 1997 and with other applicable laws, rules, and regulations as promulgated for operation of the departments and personnel transferred to the Commonwealth.

Status of Hampden County Cash on Hand: Our review of the county's existing bank accounts and related cash records showed that the County Treasurer's accounts had a reconciled cash balance of approximately \$1.8 million in 19 separate bank accounts as of June 30, 1998. However, the County Treasurer informed us that, as of April 30, 1999, these accounts had not yet been transferred to the Commonwealth and these balances had increased to approximately \$3 million. As of June 30, 1999 \$3,335,247 of Hampden County funds were transferred to the Commonwealth. The funds that were transferred are as follows:

<u>Transferred Funds</u>	
General Fund Revenue	\$ 2,107,672
Correction- Special Funds	795,751
Other Special Funds	298,959
Capital Projects Fund	<u>132,865</u>
Total	<u>\$ 3,335,247</u>

In addition, we determined that the Register of Deeds maintained three separate bank accounts. These accounts were for (1) depositing revenues from excise taxes, (2) depositing revenue from all other fee sources, and (3) depositing interest income transferred from the previous two revenue accounts. The interest income was used for enhancement and replacement of equipment for the Registry of Deeds' operation. As of October 22, 1998, we confirmed the closeout of these accounts. Transactions of the Registry of Deeds' (now under the OSS) revenue accounts are all processed through the State Treasurer and Receiver General.

The Sheriff's Department and Correctional Center (SDCC) had five bank accounts that it maintained separately from the County Treasurer. These accounts will remain open and are maintained by the SDCC fiscal department. These accounts and their purposes are as follows:

- Inmates Cash – holding account for inmates' personal cash.
- Inmates Commissary – expense account for inmates' purchases.
- Pre-Release Prisoners Residential Fee – holding account for room and board fees paid by employed pre-release inmates. Funds are placed in the state's sweep account monthly.
- Criminal Justice Organization of Hampden County Inc., – nonprofit corporation used to apply for funds requiring a 501-C-3 designation from the Internal Revenue Service.
- Michael Ashe Jr. Master Account – inmate fines that are used to reimburse the trial courts who impose the fines (no expenditures are made from this account).

Additionally, the SDCC and the Office of the State Comptroller established an Interagency Service Agreement (ISA) that allows the SDCC to maintain grant-funded programs. The ISA was established because the funding source for grants requires funds be maintained in separate budget accounts. The SDCC had transferred all its other cash, which totaled approximately \$1.3 million, to the Office of the State Treasurer and Receiver General.

Status of Hampden County Retirement Assets: Chapter 48, Section 19, of the Acts of 1997 requires that, "The retirement assets of an abolished county's employees who become state employees pursuant to this act shall be transferred from said county retirement system to the state retirement system, which shall thereafter be responsible for said employees, subject to the provisions of law applicable to

employees whose transfer from one governmental unit to another results in the transfer from one retirement system to another.” Chapter 32, Section 3, of the General Laws requires that the transfer of these assets shall be effective within 90 days of the commencement of the new employment.

The Hampden County Retirement Board informed us that 858 former county employees were eligible to be transferred to the Commonwealth’s retirement system on July 1, 1998. Further, 10 employees with assets totaling \$172,124 were transferred in July 1998 to the State Board of Retirement. The State Retirement Board later confirmed that, on October 1, 1998, the remaining 848 former county employees with retirement assets totaling \$16,619,615 were transferred to the Commonwealth by the Hampden County Retirement Board. These funds were subsequently transferred by the Pension Reserves Investment Management Board. These transactions were completed in adherence with Chapter 32, Section 3, of the General Laws.

Status of Hampden County Liabilities: Chapter 48, Section 6, of the Acts of 1997, states, in part, “All valid liabilities and debts of an abolished county which are in force immediately before the transfer date shall be obligations of the commonwealth as of the transfer date.” In order to meet these liabilities, Chapter 319 of the Acts of 1998 established a reserve fund totaling \$4,006,508. The purpose of this fund was to cover certain costs and liabilities of Hampden County, including payments for interest and principal on bonds and notes issued by the county that are overdue or about to become due, provided that funds are not expended for the payment of vendors until the Commonwealth obtains a release of obligation executed by each vendor.

Representatives of the Department of Revenue (DOR) met with the County Treasurer to review all liabilities. These representatives reviewed all source documents regarding county liabilities, and they are to make a final determination as to the total liabilities to be transferred to the Commonwealth. DOR has the responsibility to make a final determination as to the amount of liabilities and the disposition of liabilities incurred prior to June 30, 1998 by the former Hampden County.

Our review of such liabilities entailed a review of listings prepared after payment by DOR for liabilities processed. As of June 30, 1999, \$3,135,999 had been expended for county debt from the reserve account. According to the Division of Local Services, as of September 29, 1999, another \$231,737 in pending claims were being reviewed for payment. Based on this data, the Division of Local Services has informed us that all county debt and liabilities will be paid from the original reserve account, and no additional funds will be needed.

AUDIT RESULTS

1. Transferred County Employees Not Contributing the Proper Amount for Health Insurance Premiums

With the abolition of Hampden County, 858 former county employees became new state employees and were transferred to the Commonwealth's payroll system, and our review showed that 819 of these employees were enrolled in one of the Commonwealth's health insurance plans. We performed a review of payroll records to determine whether these 819 new Commonwealth employees were contributing the same percentage for their health insurance premiums as all other active Commonwealth employees. The Commonwealth contributes an 85% share towards each active state employee's health insurance premiums and the employee contributes the remaining 15% share. Our review showed that the Commonwealth was contributing a 90% share towards the premiums of these 819 employees, instead of the 85% share required by the General Laws and Chapter 194, Section 2, of the Acts of 1998.

Relative to these transferred employees and their insurance coverage, Chapter 48, Section 18, of the Acts of 1997, states:

Employees of an abolished county who become state employees under this act and who are eligible for group insurance coverage as provided under chapter 32B of the General Laws or who are insured under said chapter 32B, shall have said eligibility and coverage transferred to the jurisdiction of the group insurance commission effective four months after the transfer date, and said employees shall cease to be eligible or insured under the provisions of said chapter 32B.

Section 18 further notes that the Group Insurance Commission shall provide coverage under the provisions of Chapter 32A of the General Laws to these transferred employees. Specifically, Chapter 32A, Section 8, of the General Laws states that for policies of:

Group health insurance . . . the commonwealth, on behalf of active and retired employees and their dependents, shall contribute no less than seventy-five per cent of the total monthly premium or rate applicable to said coverages and the active and retired employees on behalf of themselves or themselves and their dependents shall contribute the remaining twenty-five per cent of the total monthly premium or rate, except, that upon approval by way of an annual, or more frequent appropriation act, the commonwealth may contribute more than seventy-five per cent but less than the entire total monthly premium or rate.

As noted above, the contribution percentages may change due to an approved annual or more frequent appropriation act. Relative to this, Chapter 194, Section 2, of the Acts of 1998 states, in part, "For the commonwealth's share of the group insurance premium and plan costs incurred in fiscal year 1999 that . . . the commonwealth's share of such premiums for active state employees shall be 85 per cent of said premiums and rates."

Furthermore, our review noted that 410 of these employees were members of a collective bargaining agreement. Chapter 48, Section 18, of the Acts of 1997 states that transferred employees who were covered by a collective bargaining agreement on the date of transfer shall receive group insurance benefits required by that agreement until it expires. Article 23 of the collective bargaining agreement for these employees states, "the Employer agrees to maintain health insurance benefits for bargaining unit employees on the same basis as those maintained by the County Commissioners for other Hampden County employees." However, even though this agreement was not due to expire until June 30, 1999, it appears with the abolishment of Hampden County and its Commissioners as of June 30, 1998, this article of the agreement would no longer apply. Moreover, the County Commissioners, based on the language of Article 23, did not intend to specify the actual contribution rate, but to leave it open to the annual budget process. One could also argue that the "County Commissioners" of Article 23 are now replaced by the "Commonwealth of Massachusetts" and, therefore, the bargaining unit employees should receive health insurance benefits on the same basis as all state employees.

In addition, a legal decision rendered in 1995 in the case of the National Association of Government Employees (NAGE) v. the Commonwealth,^{*} denied relief to members of a state employees union seeking to retain a 90% premium contribution established by collective bargaining agreements. The decision rendered stated that the ratio of contribution to state employee health insurance premiums that are paid by the state and by employees established in collective bargaining agreements is not effective unless it is incorporated by the Legislature in an appropriation act. In this case, the appropriation act reduced the

^{*}National Association of Government Employees v. Commonwealth (1995) 646 N.E.2d 106, 419 Massachusetts 448, certiorari denied 115 S.Ct. 2615, 515 U.S. 1161, 132 L.Ed.2d 858.

state's contribution percentage to state employee insurance premiums from 90% to 85%. In fact the decision stated that the legislative change did not violate contract clause. Further, the decision noted the statutes that reserve the Legislature's power to change the percentage of state's contributions and that this percentage can only be determined by the legislative appropriations process.

As a result of the Commonwealth contributing a share of 90% as opposed to 85%, there was an increased cost to the Commonwealth as well as noncompliance with Chapter 32A of the General Laws and Chapter 194 of the Acts of 1998.

The Executive Office for Administration and Finance (EOAF) representatives explained that granting Hampden County employees a 10% health insurance contribution rate was based on a determination that union employees were entitled to this rate according to Article 23 of the collective bargaining agreement and Section 18 of Chapter 48 of the Acts of 1997. We were informed that the Human Resources Division (HRD), on behalf of EOAF, "undertook a deliberative analysis of the case law of the Labor Relations Commission as well as recent decisions by the Massachusetts Courts on this specific issue and concluded that any change in rates would constitute a de facto unfair labor practice, requiring the payment of back premiums with interest."

HRD determined that the collective bargaining agreement should stay in effect through its expiration date of June 30, 1999 and that any attempt to renegotiate the contribution rate would prove futile. Also, HRD cited a decision of the Superior Court involving the State Police Association of Massachusetts, which obviated any reliance on the NAGE case according to HRD. However, upon our review of this decision, the Superior Court did not obviate the NAGE case. In fact, this decision supports the NAGE decision and states specifically that "appropriation acts ultimately set the Commonwealth's contribution percentages." Non-union employees were granted the 10% contribution rate based on EOAF's decision to be fair and equitable to all Hampden County employees being transferred to the Commonwealth.

We were informed that the 10% contribution rate would only be in effect until June 30, 1999, when the collective bargaining agreement would expire. On July 1, 1999 all transferred Hampden County

employees would have to start contributing 15% to their health insurance. However, as of October 1999, union employees of the Hampden Sheriff's Department were still only contributing 10% to their health insurance costs. Transferred employees with the OSS and the Trial Court did begin contributing 15% as of July 1, 1999 as agreed upon. The reason EOAF has not converted employees of the Hampden Sheriff's Department to the 15% contribution rate is because a new collective bargaining agreement has not been signed. Therefore, according to EOAF, the prior collective bargaining agreement is still in effect.

The actual increased cost to the Commonwealth for contributing a 90% share of premiums as opposed to an 85% share for each employee would depend on which one of 12 insurance plans an employee was enrolled in. The actual costs can only be determined at the close of the last payroll period for fiscal year 1999, when an appropriate analysis could be made after all individual payroll deductions are processed. The increased cost to the Commonwealth for family enrollees could range from \$112,477 to \$255,963, whereas the increased cost for individual enrollees could range from \$32,752 to \$57,585.

Recommendation: For future county takeovers, EOAF should transfer county employees that are eligible for group insurance coverage in compliance with Chapter 32B of the General Laws and the Commonwealth's Annual Appropriation Acts. In addition, EOAF should convert the Hampden County Sheriff's Department employees to a 15% health insurance contribution rate in adherence with Chapter 127 of the Acts of 1999, when the new collective bargaining contract takes effect.

2. Hampden County Did Not Maintain a Comprehensive List of Fixed Assets

Hampden County did not have a complete and centralized list of buildings, land parcels, equipment, vehicles, and roads, contrary to Chapter 48, Section 7, of the Acts of 1997, which states:

All rights, title and interest in real and personal property owned or held by an abolished county immediately before the transfer date, including without limitation, all courthouses, registries of deeds, registries of probate, and all other county buildings, and the land on which they are situated and any parking facilities, fixtures and improvements located thereon or appurtenant thereto, shall be transferred to the commonwealth.

Without an accurate and complete listing of real and personal property owned or held by Hampden County prior to the transfer date, the Commonwealth cannot be assured of the valuation and the volume of the real and personal property held by Hampden County.

We were provided inventory listings for equipment and supplies by the department heads that varied as to their completeness and reliability. For instance, the County Treasurer's inventory listing had not been updated since June 1992, and the County Treasurer stated that the listing was incomplete. The SDCC maintained a relatively sophisticated inventory that utilized bar coded technology. The Registry of Deeds inventory was the most complete in that it contained locations, serial numbers, purchase cost, and expiration dates in most cases. The maintenance department provided us with a listing that was incomplete and was compiled only because of our request. We determined that most of the inventory lists did not include or only partially included the date of purchase, funding source, tag number, location, and purchase price.

The county also owned a number of land parcels, buildings, and roads. However, no comprehensive centralized listing of real property and its valuation existed. Source document records (e.g., maps, deeds) were made available to us and, to a certain extent, listed the particulars of each land parcel and building. The custodian of these records, the County Engineer, maintained various sources documenting the location of county roads, including a wall map, index cards, and a multi-page listing. However, the County Engineer stated that these records needed to be updated.

Chapter 48, Section 7, of the Acts of 1997, states, in part:

Such transfer and all buildings, lands, parking, fixtures and improvements shall be subject to the provisions of chapter 7 of the General Laws and the jurisdiction of the commissioner of capital planning and operations . . . the commissioner of capital planning and operations may, from time to time, execute and record and file for registration with any registry of deeds or the land court, a certificate confirming the commonwealth's ownership of any interest in real property formerly held by an abolished county pursuant to the provisions of this section.

In addition, Chapter 7, Section 40K, of the General Laws states, in part: “The commissioner of capital asset management and maintenance shall establish and maintain a comprehensive inventory of the real property owned, rented, or otherwise occupied by public agencies.”

Recommendation: The Commonwealth should have a complete and centralized list of all fixed assets transferred from Hampden County for accounting, reporting, and auditing purposes. The Office of the Trial Court and the OSS should conduct a complete inventory of fixed assets under their control, including the maintenance departments at all county courthouses and the Registry of Deeds, respectively. These agencies should apply current state internal control guidelines to safeguard inventory. Additionally, the installation and use of the Massachusetts Management Accounting and Reporting System Fixed Asset Subsystem User Guide will assist the counties with their inventories. The purpose of this guide is to provide uniform guidelines for departments in the management of their fixed assets that are owned by the Commonwealth. We also recommend that county abolition legislation be amended to require that all former county real property be recorded and filed at the appropriate registry of deeds as now belonging to the Commonwealth.

3. **Clarification Needed Regarding Salary Increases To Elected County Officials:**

During our review we determined that the Hampden Register of Deeds and the Hampden Sheriff received salary increases subsequent to the abolishment of Hampden County government contrary to the provisions of Chapter 48, Section 4, of the Acts of 1997, which states that there shall be no increases in the salaries of any abolished county’s elected officials. The Register of Deeds of Hampden County, an elected official now working under the auspices of the OSS, received a salary increase from the OSS. The Sheriff of Hampden County received a pay increase through his department’s annual budget which he reviews and approves.

In regard to increases given, Chapter 151, Section 672, of the Acts of 1996 created a special study committee to study the transfer of registries of deeds to the OSS. This statute reads as follows:

Notwithstanding any general or special law to the contrary, a registries of deeds transfer study committee is hereby created. Said committee is authorized and directed to study and produce a

comprehensive report on the financial and programmatic implications and advisability of, and recommended procedures for, transferring the registries of deed in the counties of the commonwealth to the office of the secretary of state. The report shall assume that such transfer is to be accomplished no later than July first, nineteen hundred and ninety-seven. The members of the study committee shall be the secretary of state, the chair of the State Association of the Registers of Deeds, and the director of the division of local services in the department of revenue. The committee shall submit its report to the house and senate committees on ways and means and the joint committee on counties, on or before January first, nineteen hundred and ninety-seven.

On January 31, 1997, the Transfer Study Committee submitted a report to the Clerk of the House. This report recommended that certain laws be amended to accommodate the salaries of the registers of deeds and all assistant registers of deeds. The report recommended salary classifications that would conform to Class One and Class Two of Management Salary Schedule in use for employees of the Commonwealth in various job group categories, and created a model legislative act for consideration by the Legislature.

Even though the legislative changes recommended in the OSS report were never acted upon, the suggested salary classifications for registers of deeds was used in establishing the salary increase for the Hampden County Register of Deeds.

We noted that Chapter 151, Section 671 of the Acts of 1996 also established a county corrections transfer study committee. The statute reads as follows:

Notwithstanding any general or special law to the contrary, a county corrections transfer study committee is hereby created. Said committee is authorized and directed to produce a comprehensive report on the financial and programmatic implications and advisability of, and recommended procedures for, transferring corrections functions now performed by county governments to the executive office of public safety. The report shall assume that such transfer is to be accomplished no later than July first, nineteen hundred and ninety-seven. The members of the study committee shall be the secretary of the executive office of public safety, the chair of the Massachusetts Sheriffs' Association, and the director of the division of local services in the department of revenue. The committee shall submit its report to the house and senate committees on ways and means, the joint committee on public safety, and the joint committees on counties, on or before January first, nineteen hundred and ninety seven.

Unlike the county registry transfer committee, the corrections transfer study committee has not submitted a report to the Legislature. Because a report to the Legislative was never produced, no salary classification system was suggested or developed.

Legislation was signed into law on November 16, 1999, more than 16 months after the abolition of Hampden County government, that amended Chapter 48 of the Acts of 1997. Specifically, Chapter 127, Section 53 of the Acts of 1999 created Chapter 34B of the General Laws titled "Abolition of County Government." Section 3 of Chapter 34B now allows for elected county officials to receive salary increases after a county has been abolished. The new law reads, "there shall be no increase in the salaries of any abolished county's elected officials, prior to the transfer of the abolished county to the commonwealth." Therefore, the salary increase received by the Hampden County Register of Deeds and the Sheriff no longer violates county abolition legislation. However, the new legislation still remains silent on salary increases for these elected officials.

Section 10 of Chapter 34B states that registers of deeds of an abolished county shall remain elected officials retaining local administrative control under the general direction of the OSS. Specifically, Section 10 states that "Said secretary shall determine the budget of each registry, subject to appropriation." Again, there is no language in regard to salary increases for these elected registers of deeds.

Section 12 of Chapter 34B indicates that the sheriff of an abolished county, including Hampden County, shall operate pursuant to the provisions of Chapter 37 of General Laws. Section 17 of Chapter 37 discusses the salaries of elected officials as follows:

The salaries of sheriff's shall be paid by their respective counties and shall, except as hereinafter provided, be in full compensation for all services rendered both as sheriff and as superintendent or keeper of the jail or house of correction. If a sheriff elects to act, or his deputy acts, as superintendent or keeper of the jail or house of correction and resides thereat, he shall be entitled to rent, heat and light, and such subsistence as he may desire out of the regular subsistence rations purchased for prisoners, together with such other maintenance as may be determined from time to time by the county personnel board.

The salary of the sheriff of the county of Suffolk shall be a sum equivalent to ninety per cent of the salary of an associate justice of the superior court.

The sheriff of the county of Nantucket shall, in addition to his salary, retain all fees collected and received by him for service of process.

However, this law does not address salary increases, the rate an abolished county sheriff's salary should be, and when and how an abolished county's sheriff should receive an increase in salary.

The process of setting the salaries of abolished county elected officials needs to be addressed. The adequacy of compensation and the fairness of the determination process for establishing the salaries of such elected officials are otherwise subject to question and future conflicts.

Recommendation: The appropriate parties should resolve the methods, differences, and ambiguities in setting the salaries of former county elected officials from abolished counties who are now elected state officials.

